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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,563	12/08/2003	Glenda Gail Campbell	GCBL-27,247US	4236
31782	7590	07/12/2004	EXAMINER	
CHAUZA & HANDLEY, L.L.P.			VALENTI, ANDREA M	
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3643

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/730,563	Applicant(s) CAMPBELL, GLENDA GAIL	
	Examiner Andrea M. Valenti	Art Unit 3643	<i>ML</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-21 is/are allowed.
- 6) ☒ Claim(s) 1, 3-17 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,324,833 to Clugston.

Regarding Claim 1, Clugston teaches a weatherproof pet feeder for placing outdoors to provide feed and water, the weatherproof pet feeder comprising: a feeder base having an entrance section (Fig. 1 #18) with an open forward end for receiving the animal, and a feeder section (Fig. 1 #14) which the animal accesses after passing into the open forward end of the feeder base; support legs extending downward from said feeder base to a ground surface and suspending said feeder base above the ground surface (#16); an enclosure (#30) having a front opening (Fig. 1 #36 and #53) for receiving the animal and an enclosed rearward end (Fig. 3 #28), said enclosure fitting over said entrance section and said feeder section of said feeder base, with said front opening registering with said open forward end of said entrance section of said feeder base and said enclosed rearward end enclosing said feeder section of said feeder base; and means for securing said enclosure to said feeder base (#20 and #34), such that said enclosure is moveable relative to said feeder base for accessing said feeder section.

Regarding Claims 3 and 12, Clugston teaches the enclosure has an exterior surface with a top defining a crest which extends from said enclosed rearward end to said front opening, said crest having a rearward ridge defined atop said closed rearward end and a forward ridge disposed adjacent to said front opening, and said crest sloping downward from said rearward ridge and downward from said forward ridge to an intermediate portion, disposed between said forward ridge and said rearward ridge (Fig. 3 #30, 26, 38).

Regarding Claim 13, Clugston teaches said means for securing comprises a hinge which pivotally secures said enclosure to said feeder base, said hinge having a plurality of hinge loops (the holes for element #34) with a first portion of said hinge loops extending from said enclosure and a second portion of said hinge loops extending from said feeder base (Fig. 2), and a removable pin (#34) which extends within said hinge loops to pivotally secure first portion of said hinge loops to said second portion of said hinge loops.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,324,833 to Clugston in view of U.S. Patent No. 2,845,896 to Copeland.

Regarding Claim 4, Clugston is silent on two bowl sockets for receiving a feed bowl and a water bowl, respectively. However, Copeland teaches a feeder with two bowl sockets (Copeland Fig. 2 #74 and 72). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Clugston with the teachings of Copeland to provide both water and feed with out mixing the two and keeping the bowls securely in place.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,324833 to Clugston

Regarding Claim 5, Clugston teaches said means for securing comprises a hinge which pivotally secures said enclosure to said feeder base, said hinge having a plurality of hinge loops (the holes for element #34) with a first portion of said hinge loops extending from said enclosure and a second portion of said hinge loops extending from said feeder base (Fig. 2), and a removable pin (#34) which extends within said hinge loops to pivotally secure first portion of said hinge loops to said second portion of said hinge loops

Clugston is silent on the means for securing further comprises a latch for releasibly securing said enclosure in a downward position relative to said feeder base. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since latches are old and notoriously well-known means of securing an element in place and it would have been obvious to modify the teachings with a latch to prevent the enclosure from pivoting in high winds.

Claims 6, 7, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,324,833 to Clugston in view of U.S. Patent No. 5,231,953 to Garrett.

Regarding Claims 6, 7, and 14, Clugston as modified is silent on the feeder section of said feeder base includes a heating element disposed with one of said bowl sockets for warming a water bowl when received within said one of said bowl sockets and a battery pack mounted to said feeder base for powering said electric heating element. However, Garrett teaches a battery pack mounted to a feeder base with a heating element in the bowl socket (Garrett Fig. 4 #16). It would have been obvious to one of ordinary skill in the art to modify the teachings of Clugston with the teachings of Garrett to prevent the water from freezing in the winter.

Claims 8, 10, 11, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,324,833 to Clugston in view of U.S. Patent No. 6,467,433 to Stanton et al.

Regarding Claims 8 and 15, Clugston is silent on the support legs include leg sections and mounting feet, with said leg sections being coupled to said mounting feet and said feeder base, and a quantity of said leg sections used in each of said support legs being selectively determined to select overall lengths of respective ones of said support legs. However, Stanton teaches support legs with mounting feet (Stanton #120) and leg sections (Stanton #140 and 117). It would have been obvious to one of

ordinary skill in the art to modify the teachings at the time of the invention to adjust the height for different size animals.

Regarding Claims 10 and 16, leg sections of said support legs are of modular shape, and said support legs further comprise seal members (Stanton #108).

Regarding Claim 11, Clugston as modified teaches the legs sections further include mounting feet, and said mounting feet have apertures for receiving stakes (Stanton #122) to secure said mounting feet and said feeder base to the ground surface, but is silent on the feeder base has a plurality of tie down loops for securing said feeder base in position relative to the ground surface. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since it is old and notoriously well-known to secure structures to the ground surface using tie downs to prevent undesired displacement in strong winds.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,324,833 to Clugston in view of U.S. Patent No. 6,467,433 to Stanton et al. as applied to claim 16 above, and further in view of U.S. Patent No. 5,148,626 to Haake.

Regarding Claims 17, Clugston as modified teaches legs sections further include mounting feet, and said mounting feet have apertures for receiving stakes (Stanton #122) to secure said mounting feet and said feeder base to the ground surface; and said feeder base has a plurality of tie down loops for securing said feeder base in position relative to the ground surface, but is silent on the tie downs. However, it would

have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since it is old and notoriously well-known to secure structures to the ground surface using tie downs to prevent undesired displacement in strong winds.

Clugston as modified is silent on the insecticide band. However, Haake teaches the leg section of a feeder containing bands of insecticide (Haake Fig. 3 #54, 58 and 60). It would have been obvious to one of ordinary skill in the art to modify the teachings of Clugston with the teachings of Haake at the time of the invention to prevent from insects reaching and contaminating the animal feed.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,324,833 to Clugston in view of U.S. Patent No. 5,148,626 to Haake.

Regarding Claim 9, Clugston is silent on the leg sections include insecticide bands which comprise strips of absorbent material which are adhesively secured to respective ones of said support legs between the ground surface and said feeder base, said absorbent strips being treated with an insecticide. However, Haake teaches the leg section of a feeder containing bands of insecticide (Haake Fig. 3 #54, 58 and 60). It would have been obvious to one of ordinary skill in the art to modify the teachings of Clugston with the teachings of Haake at the time of the invention to prevent from insects reaching and contaminating the animal feed.

Allowable Subject Matter

Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18-21 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Cited references U.S. Patent No. 3,324,833; U.S. Patent No. 5,148,626; U.S. Patent No. 5,231,953; United Kingdom Patent GB 2220835; German Patent DE 3300770; European Patent EP 390245; U.S. Patent No. 4,860,691; U.S. Patent No. 2,841,116; U.S. Patent Des. 391,692; U.S. Patent No. 6,408,788; U.S. Patent No. 5,884,582; U.S. Patent No. 2,845,896; U.S. Patent No. 5,222,990; U.S. Patent No. 4,334,501; U.S. Patent No. 2,944,364; U.S. Patent No. 5,504,431; U.S. Patent No. 2,682,255; U.S. Patent No. 6,557,489; U.S. Patent No. 3,654,904; U.S. Patent No. 4,029,051; U.S. Patent No. 2,492,604; U.S. Patent No. 1,257,211; U.S. Patent No. 2,865,326; U.S. Patent No. 3,763,825; U.S. Patent No. 6,739,284; U.S. Patent No. 4,794,546 teach a weatherproof pet feeder, comprising: a feeder base having a horizontally disposed, generally planar shape, said feeder section including a feed bowl socket and a water bowl socket which extend upward from a horizontal plane defined by said generally planar shape of said feeder base for approximately three inches, heating element for the bowls, support legs, an enclosure, means for securing the enclosure to

the feeder base, a crest defined by the enclosure, battery pack, a hinge with hinge loop and hinge pin, tie down loops, stakes and insecticide bands.

The prior art of record all fails to show, and fails to make obvious, either alone and/or in combination an entrance section with an open forward end defined by a slot which extends approximately two-thirds of a longitudinal length of said feeder base into said planar shape of said feeder base to a feeder section, said entrance section to have a generally U-shape with opposite sides of said open forward end ranging from one and one-half inches to two inches in wide; said feeder section of said feeder base extending approximately one-third of said longitudinal length of said feeder base and disposed at a rearward end of said feeder base; a feed bowl socket and said water bowl socket extending across a width of most of said feeder section; two plastic coated stainless steel bowls having large curved brims that overlap respective ones of rims of said feed and water bowl sockets, said bowls being approximately three inches tall and removably fitting snugly into said feed and water bowl sockets; an electric heating element disposed proximate to one of said feed and water bowl sockets, wherein said heating element is a cage-like heating element which is encased in one of said bowl sockets, and said bowl socket being sealed for containing water therein such that said one of said bowl sockets may be used for storing water, and said electric heating element is disposed on sides and a bottom of said one of said bowl sockets; an enclosure fitting over said entire feeder base, said enclosure having a front opening and an enclosed rearward end, said enclosed rearward end being of a substantially rounded shape for fitting over said feeder section, and said enclosed rearward end being higher than a

forward portion of an upper surface of said enclosure and being rounded for providing head space for a feeding animal, and a rearward portion of said enclosed rearward of said enclosure being extending vertically and being of a substantially flat shape; said upper surface of said enclosure having a top which defines a crest which includes two ridges, a first one of said two ridges disposed above said feeder section and adjacent to said enclosed rearward end and extending forward toward said open forward end, leveling out to a second one of said two ridges, and said second one of said two ridges rising to an uppermost surface of said open forward end, and curving downward and forming an overhang at a front opening of said enclosure, said overhang extending downward from said uppermost surface of said open forward end approximately two inches to form a top portion of said front opening of said enclosure; a grip handle disposed on said upper surface of said enclosed rearward end, said grip handle being formed of plastic into a round bar with one-inch curved ends which elevate said grip handle one inch from said upper surface to provide a hand grip, and being approximately between three to four inches long, said grip handle running lengthwise with a length of said enclosure and said feeder base, and being positioned on a rearward end of said crest defined by said top of said exterior surface of said enclosure; said latches being disposed one on each side of said enclosure, toward a forward end of said enclosure, and having lower ends which are flanged to grip an underside of said feeder base; an electric power cord being a heavy duty flexible steel-wrapped power cord; a power connector adjacent to said storage compartment, and connects heating element to power source via power cord; a battery pack-stored in side of storage

compartment under water bowl socket for providing alternative electrical power to said heating element encased in the water bowl socket so that power cord maybe stored away in storage compartment; a control unit connecting said battery pack to said heating element, said control unit including a temperature regulator for maintaining a temperature of the water in said one of said bowl sockets above 32 degrees F; a storage compartment disposed beneath said feeder section of said feeder base, said storage compartment having a middle divider to define two sections of said storage compartment, a first one of said two sections being disposed beneath said feed bowl socket for storing said electric power cord, and a second one of said two compartments disposed beneath said water bowl socket and storing said battery pack; a storage compartment door covering both said first and second sections of said storage compartment and said power connector disposed adjacent to said storage compartment, said storage compartment door extending across said width of a rearward end of said feeder base; said storage compartment being one inch to one and one-half inches tall and disposed at least one inch above a ground surface; a hinge having a first set of loops disposed on said rearward portion of said enclosure and a second set of hinge loops disposed on a rearward end of said feeder base, said first and second loops inter-fitting and extending around a hinge pin which extends along said width of said feeder base, said hinge pin being removable such that said enclosure can be disconnected from said feeder base, wherein said hinge and said hinge pin extend for a complete width of said rearward said feeder base and said enclosure; tie down loops extending from said feeder base, wherein respective ones of said tie down loops are

disposed on each side of a forward end of said feeder base, respective ones of said tied down loops are disposed on each side of feeder base proximate to said feeder section, and two of said tie down loops are disposed on a rearward end of said feeder base; said feeder base including support leg sockets disposed at each corner of said feeder base, said support leg sockets extending two and one-half inches beneath a main body portion of said feeder base and said support leg sockets being two and one-half inches in diameter, said support leg sockets having interior threads for threadingly securing said support legs thereto, wherein said support leg sockets elevate said feeder base approximately two and one-half inches above a ground surface; said support legs having leg sections, nipples with center dividers that serve as end seals, and wide-based mounting feet with two and one-half inch high tubular portions and apertures for receiving stakes, said leg sections being tubular-shaped and having interior passages for holding a weighting material, upper ends of said leg sections having exterior threads for threadingly securing to respective ones of said support sockets of said feeder base and threadingly securing to interior threads of a lower end of an adjacent leg section, and lower ends having interior threads for threadingly securing to exterior threads of an upper end of an adjacent leg section and to exterior threads of nipple, and wherein said leg sections are preferably no longer than eight inches tall and two and one-half inches in diameter; said nipples having exterior threaded upper end sections for securing to internal threaded lower ends of leg sections, and exterior threaded lower end sections for securing to interior threaded tubular portion of mounting feet, and center dividers providing end seals to seal a weighting material within said leg sections; said wide-base

mounting feet having a wide-based solid bottom, interior threads inside a tubular portion thereof for receiving exterior threads of said nipples, apertures for receiving said stakes, formed as one continuous piece, and said mounting feet being two and one-half inches tall and a two and five-eighths inch diameter modular portion; said stakes being three inches long, and inserted through apertures in said mounting feet and into a ground surface for securing said mounting feet to the ground surface; and insecticide bands formed of strips of absorbent material two inches wide, eight and one-quarter inches long, and one-eighth inch thick, wherein said absorbent material of said k insecticide bands is impregnated with insecticide and an adhesive backing is applied to one side of said absorbent material, and a wax-like paper protective backing is secured against said adhesive backing for removal prior to said insecticide bands being installed onto respective ones of said support legs, and wherein said insecticide bands are installed to said support legs by wrapping said insecticide bands around said support legs to prevent insects from contaminating feed and water disposed in said feeder section.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

United Kingdom Patent GB 2220835; German Patent DE 3300770; European Patent EP 390245; U.S. Patent No. 4,860,691; U.S. Patent No. 2,841,116; U.S. Patent Des. 391,692; U.S. Patent No. 6,408,788; U.S. Patent No. 5,884,582; U.S. Patent No. 5,222,990; U.S. Patent No. 4,334,501; U.S. Patent No. 2,944,364; U.S. Patent No. 5,504,431; U.S. Patent No. 2,682,255; U.S. Patent No. 6,557,489; U.S. Patent No.

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Art Unit: 3643

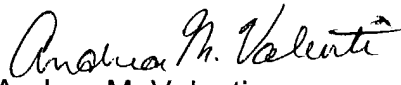
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3,654,904; U.S. Patent No. 4,029,051; U.S. Patent No. 2,492,604; U.S. Patent No. 1,257,211; U.S. Patent No. 2,865,326; U.S. Patent No. 3,763,825; U.S. Patent No. 6,739,284; U.S. Patent No. 4,794,546.

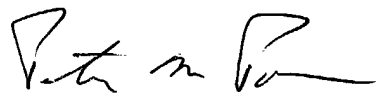
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Andrea M. Valenti
Examiner
Art Unit 3643

21 June 2004


Peter M. Poon
Supervisory Patent Examiner
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